

IN RE:	)	
	)	Chapter 11
FURNITURE FACTORY ULTIMATE,	)	
HOLDING, L.P., <sup>1</sup>	)	Case No. 20-12816 (JKS)
	)	
Debtor.	)	
	)	
STEVEN BALASIANO, NOT INDIVIDUALLY	)	
BUT SOLELY IN HIS CAPACITY AS	)	Adv. Proc. No. 22-50390 (JKS)
TRUSTEE OF THE LIQUIDATION TRUST OF	)	
FURNITURE FACTORY ULTIMATE	)	
HOLDING, L.P., <i>et al.</i> ,	)	<b>Re: A.D.I. 27</b>
	)	
Plaintiff,	)	
v.	)	
	)	
JONATHAN H. BORELL, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

Sun Capital Partners, Inc., Sun Capital Partners Management VI, LLC, and Furniture Factory Note Holding LLC (collectively, the “Entity Defendants”), as Defendants in the above-captioned adversary proceeding, by and through their undersigned counsel, respectfully move (the “Motion”) the Court for an order dismissing Counts IV, V, VI, VII, VIII, and X of the *Amended Complaint* (A.D.I. 27) (the “Amended Complaint”) pursuant to Federal Rule of Civil Procedure

<sup>1</sup> The Debtor in the chapter 11 case, together with the last four digits of the Debtor's federal tax identification number, is as follows: Furniture Factory Ultimate Holding, L.P. (4089). The Debtor's mailing address is 6500 Jenny Lind Road, Space A, Fort Smith, Arkansas 72908.

12(b)(6), made applicable by Federal Rule of Bankruptcy Procedure 7012. In support, the Entity Defendants state:

1. Support for this Motion is set forth in the accompanying opening brief (the “Opening Brief”), filed contemporaneously herewith and incorporated herein.

2. Pursuant to Bankruptcy Rule 7012(b), and Local Rule 7012-1, the Entity Defendants consent to the entry of final orders or judgments by the Court.

WHEREFORE, for the reasons set out in the Opening Brief, the Entity Defendants respectfully request that the Court (i) enter the proposed form of order attached hereto as Exhibit A granting this Motion, and (ii) grant any further relief that may be appropriate.

Dated: October 20, 2022  
Wilmington, Delaware

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*/s/ John P. DiTomo*

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**MORRIS, NICHOLS, ARSHT & TUNNELL  
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